

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2337
OFFERED BY MR. MARKEY OF MASSACHUSETTS**

In title II, strike subtitle D (page 40, beginning at
line 3) and insert the following:

1 Subtitle D—Wind Energy

**2 SEC. 231. WIND TURBINE GUIDELINES ADVISORY COM-
3 MITTEE.**

4 (a) IN GENERAL.—The Secretary of the Interior,
5 within 30 days after the date of enactment of this Act,
6 shall convene or utilize an existing Wind Turbine Guide-
7 lines Advisory Committee to study and make recommenda-
8 tions to the Secretary on guidance for avoiding or mini-
9 mizing impacts to wildlife and their habitats related to
10 land-based wind energy facilities. The matters assessed by
11 the Committee shall include the following:

12 (1) The Service Interim Guidance on Avoiding
13 and Minimizing Wildlife Impacts from Wind Tur-
14 bines of 2003.

15 (2) Balancing potential impacts to wildlife with
16 requirements for acquiring the information necessary
17 to assess those impacts prior to selecting sites and
18 designing facilities.

1 (3) The scientific tools and procedures best able
2 to assess pre-development risk or benefits provided
3 to wildlife, measure post-development mortality, as-
4 sess behavioral modification, and provide compen-
5 satory mitigation for unavoidable impacts.

6 (4) A process for coordinating State, tribal,
7 local, and national review and evaluation of the im-
8 pacts to wildlife from wind energy consistent with
9 State and Federal laws and international treaties.

10 (5) Determination of project size thresholds or
11 impacts below which guidelines may not apply.

12 (6) Appropriate timetables for phasing-in guid-
13 ance.

14 (7) Current State actions to avoid and minimize
15 wildlife impacts from wind turbines in consultation
16 with State wildlife agencies.

17 (b) COMMITTEE OPERATIONS.—The Wind Turbine
18 Guidelines Advisory Committee shall conduct its activities
19 in accordance with the Federal Advisory Committee Act
20 (5 U.S.C. App.). The Secretary is authorized to provide
21 such technical analyses and support as is requested by
22 such advisory committee.

23 (c) COMMITTEE MEMBERSHIP.—The membership of
24 the Wind Turbine Guidelines Advisory Committee shall
25 not exceed 20 members, and shall be appointed by the Sec-

1 retary of the Interior to achieve balanced representation
2 of wind energy development, wildlife conservation, and
3 government. The members shall include representatives
4 from the United States Fish and Wildlife Service and
5 other Federal agencies, and representatives from other in-
6 terested persons, including States, tribes, wind energy de-
7 velopment organizations, nongovernmental conservation
8 organizations, and local regulatory or licensing commis-
9 sions.

10 (d) REPORT.—The Wind Turbine Advisory Com-
11 mittee shall, within 18 months after the date of enactment
12 of this Act, submit a report to Congress and the Secretary
13 providing recommended guidance for developing effective
14 measures to protect wildlife resources and enhance poten-
15 tial benefits to wildlife that may be identified.

16 (e) ISSUANCE OF GUIDANCE.—Not later than 6
17 months after receiving the report of the Wind Turbine
18 Guidelines Advisory Committee under subsection (d), the
19 Secretary shall following public notice and comment issue
20 final guidance to avoid and minimize impacts to wildlife
21 and their habitats related to land-based wind energy facili-
22 ties. Such guidance shall be based upon the findings and
23 recommendations made in the report.

1 **SEC. 232. AUTHORIZATION OF APPROPRIATIONS FOR RE-**
2 **SEARCH TO STUDY WIND ENERGY IMPACTS**
3 **ON WILDLIFE.**

4 There is authorized to be appropriated to the Sec-
5 retary of the Interior \$2,000,000 for each of fiscal years
6 2008 through 2015 for new and ongoing research efforts
7 to evaluate methods for minimizing wildlife impacts at
8 wind energy projects and to explore effective mitigation
9 methods that may be utilized for that purpose.

10 **SEC. 233. ENFORCEMENT.**

11 The Secretary shall enforce the Endangered Species
12 Act of 1973, the Migratory Bird Treaty Act, the Bald
13 Eagle Protection Act, the Golden Eagle Protection Act,
14 the Marine Mammal Protection Act of 1973, the National
15 Environmental Policy Act of 1969, and any other relevant
16 Federal law to address adverse wildlife impacts related to
17 wind projects. Nothing in this section preempts State en-
18 forcement of applicable State laws.

19 **SEC. 234. SAVINGS CLAUSE.**

20 Nothing in this subtitle preempts any provision of
21 State law or regulation relating to the siting of wind
22 projects or to consideration or review of any environmental
23 impacts of wind projects.